

UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,
Plaintiff,

v.

No 1:05cr01849-15 JH

DANA JARVIS, et al, ,
Defendants.

NOTICE OF UNAVAILABILITY OF DEFENSE COUNSEL

†
IN SUPPORT of Defendant Hothan's *Notice of Unavailability of Defense Counsel*, he states:

1. Please notice that defense counsel will not be available due to previously scheduled matters on the following dates and times:

<u>Date(s)</u>	<u>Matter(s)</u>
19 June – 14 July 2006.....	Death Penalty Trial, <u>State of New Mexico v. Jerry Wayne Fuller</u> , State of New Mexico, County of Roosevelt, Cause No D0911 CR 2005-47 (<i>see exhibit one attached, Amended Order of Pre-Trial Conference</i> filed 19 August 2005
11 - 22 September 2006	Professor, Criminal Law Trial Advocacy Course, US Army Judge Advocate School, University of Virginia Law School, Charlottesville, Virginia

2. Defendant waives under 18 U.S.C. 3161(h)(8)(A) and 3161(h)(8)(B)(iv) any right to speedy trial caused by delay attributed to defendant because of his counsel's unavailability. Despite the exercise of due diligence, the failure to vacate a hearing at which defense counsel cannot attend due to previously

scheduled matters would deny effective assistance of counsel. 18 U.S.C.

§§3161(h)(8)(B)(iv).

WHEREFORE defendant requests that the court:

A. Schedule any foreseeable hearings for such time and date, other than those set forth in paragraph one, convenient to all concerned; and,

B. Grant such further relief as justice requires.

Stephen D Aarons
Counsel for Defendant Hothan
300 Catron Street, Suite A
PO Box 1027
Santa Fé NM 87504-1027
505/984-1100; Fax: 505/984-1110

Certificate of Service

On the date of filing I caused an electronic copy of this pleading to be transmitted to the following counsel of record:

James Braun US Attorney, District of New Mexico Post Office Box 607 Albuquerque NM 87103-0607

Stephen D Aarons
Counsel for Defendant Hothan

IN THE DISTRICT COURT
NINTH JUDICIAL DISTRICT
STATE OF NEW MEXICO
COUNTY OF ROOSEVELT
STATE OF NEW MEXICO,

Plaintiff,

vs.

No. D-0911-CR-200500047
D-0911-CR-200500119

JERRY WAYNE FULLER,
Defendant.

AMENDED ORDER ON PRE-TRIAL CONFERENCE

THIS MATTER having come before the Court this 12th day of August, 2005, for Pre-Trial Conference, the State appearing by Donna J. Mowrer, Deputy District Attorney and with Matthew E. Chandler, District Attorney and Michael Cox, Assistant Attorney General, appearing telephonically, the defendant appearing in person and Jeffrey Jones, Attorney for Defendant, having appeared telephonically and the Court being well and sufficiently advised;

IT IS THEREFORE ORDERED that any motion on a change of venue must be heard by the end of the year. The deadline for the filing of all motions in this matter is set for February 1, 2006 and the deadline for hearing all motions is April, 2006; discovery is to be completed by September, 2005, except for laboratory results, which must be disclosed no later than January 15, 2006;

FURTHER, trial in this matter is set to begin on June 19, 2006 for a period of four (4) consecutive weeks and defense counsel hereby stipulates to a local extension in this matter.

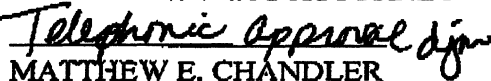
IT IS SO ORDERED.

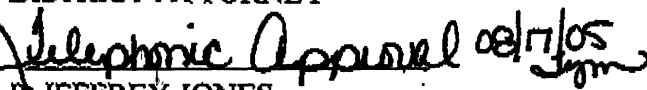

STEPHEN K. QUINN
DISTRICT JUDGE

HAVE SEEN:


DONNA J. MOWRER

DEPUTY DISTRICT ATTORNEY


MATTHEW E. CHANDLER
DISTRICT ATTORNEY


P. JEFFREY JONES

ATTORNEY FOR THE RESPONDENT

05F-046/tym (Amendment adds the venue motion sentence)